

which publication of notice of intention to apply for the passage of a local or special law, and proof of such publication shall be made," with amendments.

Hobby, Chairman.

The President announced that Senator Brady was added to Committee on Constitutional Amendments.

Senate Bill No. 109, entitled, "An Act to regulate juries in civil cases," being the unfinished business of yesterday, was taken up.

Pending on adjournment, was Senator Brown's amendment, which was as follows: Amend Section 2 as follows: Insert in line 4, after the word, "inhabitants," the words, "all farmers, laborers and mechanics, working with their own hands at their several daily avocations."

Senator Thompson offered the following substitute for Senator Brown's amendment:

Amend Section 2 so as to read: "Section 2. No person qualified under this act shall be exempt from jury service; but the Judge may excuse any person for good cause, made known to him in open court, when said person is called to act as a juror."

The substitute rejected and the amendment lost.

Senator Crain offered the following amendment:

In Section 2, line 4, after, "inhabitants," insert, "*provided*, that the officers to be exempted shall be selected by the company, and their names handed to the Clerk of the District Court by the foreman of the company before the exemption can be taken advantage of."

Adopted.

President *pro tempore* in the chair.

Senator McCormick offered the following amendment to Section 1:

Strike out the words, "and able to read and write," in the last line of the section.

The President in the chair.

Senator Ford offered the following substitute for Senator McCormick's amendment:

To Section 1 add the following proviso: "*Provided*, that whenever the Jury Commissioners, hereinafter provided for, cannot find the proper number of jurors able to read and write, then the qualifications of an ability to read and write may be dispensed with."

Pending which, on motion of Senator Smith, the Senate adjourned until to-morrow at 10 o'clock A. M.

## TWENTY-EIGHTH DAY.

SENATE CHAMBER,  
AUSTIN, TEXAS, May 20, 1876. }

Senate met pursuant to adjournment. Roll called. Quorum present. Prayer by the Chaplain.

Journal of yesterday read and adopted.

Senator Carroll moved that one more Senator be added to the Committee appointed to visit the Agricultural and Mechanical College at Bryan.

Carried, and Senator Brady was appointed by the President, on said committee.

The following communication was received from the Secretary of State:

DEPARTMENT OF STATE,  
AUSTIN, MAY 19, 1876. }

*Hon. R. B. Hubbard, President of the Senate:*

I have the honor to inform you that the contract and bond of John D. Elliott, for the current printing of the Fifteenth Legislature, has been this day approved by the Governor, Comptroller and Secretary of State.

Very Respectfully, A. W. DEBERRY, *Secretary of State.*

Senator Thompson presented the petition of numerous citizens of Colorado county, remonstrating against the formation of a new county, to be called Menefee, out of portions of Fayette, Colorado, Lavaca, Gonzales and Bastrop counties, for divers reasons.

Read and referred to the Committee on Counties and County Boundaries.

Senator McLeary presented the petition of citizens of Menard county, "asking for a special term of the District Court in that county," with an accompanying bill for that purpose.

Read and referred to the Committee on Judiciary No. 1.

Senator Martin presented the petition of many citizens of Justice's District No. 4, of Wood county, "asking that the place of holding the Justice's Court of said District shall be located at Winnsboro, in said District, and not at Webster, in the same District.

Read and referred to Judiciary Committee No. 2.

Senator Thompson presented the petition of citizens of Gonzales county, "remonstrating against the formation of a new county, to be called Menefee, out of parts of Colorado, Fayette, Lavaca, Gonzales and Bastrop counties."

Read and referred to the Committee on Counties and County Boundaries.

Senator Smith presented the memorial of Mary J. Thompson and her daughters, relict and children of an old Texas soldier, Henry N. Thompson, from the State of Ohio, who served in Texas in the year 1837, in a company from said State, and now deceased, asking for the donation of land such soldiers were entitled to, and which said soldier or his family have never obtained.

Senator J. R. Henry, Chairman of Committee on Claims and Accounts submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Claims and Accounts, to whom was referred Senate Bill No. 45, entitled, "An Act concerning certain claims against the Republic and State of Texas," have had the same under consideration, and recommend that it do not pass. J. R. HENRY, *Chairman.*

Senator McLeary, Chairman of Committee on Privileges and Elections, submitted the following reports:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Privileges and Elections, to whom was referred Senate Bill No. 67, entitled, "An Act to amend an act regulating contested elections," approved May 8, 1873, have had the same under consideration, and report the same back to the Senate, with the recommendation that it do pass. MCLEARY, *Chairman.*

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Privileges and Elections have had under consideration House Joint Resolution No. 23, relating to elections of County Treasurers and County Surveyors, and submit the following amendments, and recommend that the bill as amended do pass:

Amend the bill by inserting, after the word, "Surveyors," the words, "Inspectors of Hides and Animals," and so amend whenever it occurs in the body of the bill.

In Section 2, line 5, strike out the word, "second," and insert the word, "third."

In Section 2, line 15, strike out "Tex." and insert "Texas."

McLEARY, *Chairman.*

Senator Piner, Chairman of Committee on Judiciary No. 2, submitted the following reports:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Judiciary No. 2, to whom was referred House Bill No. 43, entitled, "An Act to permit the transfer of certain suits from one court to another," have had the same under consideration, and beg leave to report the same back, with the recommendation that it do pass.

PINER, *Chairman.*

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Judiciary No. 2, to whom was referred Senate Bill No. 50, entitled, "An Act to amend an act entitled, 'An Act to adopt and establish a penal code for the State of Texas,'" approved August 28, 1856, have had the same under consideration, and beg leave to report the same back, with the following amendment, to-wit:

Amend by striking out all after the word, "years," in Section 1, and then adding, after the word, "years," in Section 1, "and not more than fifteen years," and as amended recommend that it do pass.

PINER, *Chairman.*

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Judiciary No. 2, to whom was referred Senate Bill No. 102, entitled "An Act to amend article 393, of an act to adopt and establish a penal code for the State of Texas," approved August 28, 1856, have had the same under consideration, and beg leave to report the same favorably, and recommend that it do pass.

PINER, *Chairman.*

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Judiciary No. 2, to whom was referred Senate Bill No. 154, entitled, "An Act to amend Article 271 of an act to adopt and establish a code of criminal procedure," approved August 26, 1856, have had the same under consideration, and beg leave to report the same favorably and recommend that it do pass.

PINER, *Chairman.*

Senator Wortham, from special committee appointed yesterday, to be present at the opening of the bids for the current printing of the Legislature, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your committee, appointed on the part of the Senate, to be present at the office of the Secretary of State at 12 M. on yesterday, to witness



the opening of the bids to do the current printing of the present Legislature, as provided by law, beg leave to report that the committee were present as required; that, of all the bids offered (five in number), it appeared that the bid of J. D. Elliott was the lowest and best for the State, and that the current printing was awarded to him. Further, that J. D. Elliott has filed his contract to do the current printing, with approved bond, in the office of the Secretary of State, in the sum of five thousand dollars, for his faithful compliance with his said contract with the State.

WORTHAM, *Chairman*.

Senator Hobby submitted the following report from Judiciary Committees Nos. 1 and 2, on House Joint Resolution No. 1, to provide for revision of statutes:

*Hon. R. B. Hubbard, President of the Senate:*

Your Judiciary Committees of the Senate, to whom was referred House Concurrent Resolution requiring the appointment of a Joint Special Committee of the two Houses, on Statutory Revision, have considered the same, and we are instructed to report the resolution back to the Senate, with the recommendation that it do not pass.

HOBBY, *Chairman, No. 1.*

PINER, *Chairman, No. 2.*

Senator Hobby, Chairman of Judiciary Committee No. 1, submitted the following reports:

*Hon. R. B. Hubbard, President of the Senate:*

Your Judiciary Committee No. 1, to whom was referred Senate Bill No. 59, entitled, "An Act to amend Article 5517, of Paschal's Digest, approved August 15, 1870, concerning wills," have had the same under consideration, and instruct me to report the bill back to the Senate and recommend that it do not pass, as it is already provided for in the probate law, heretofore reported to the Senate.

HOBBY, *Chairman.*

*Hon. R. B. Hubbard, President of the Senate:*

Your Judiciary Committee No. 1, to whom was referred Senate Bill No. 139, entitled, "An Act concerning rents of lands and tenements, other than lands for cultivation," have had the same under consideration, and instruct me to report the bill back to the Senate, and recommend its passage.

HOBBY, *Chairman.*

*Hon. R. B. Hubbard, President of the Senate:*

Your Judiciary Committee No. 1, to whom was referred Senate Bill No. 147, entitled, "An Act to legitimize bastards, and to provide for their maintenance and support," report the bill back to the Senate, and recommend it do not pass.

HOBBY, *Chairman.*

*Hon. R. B. Hubbard, President of the Senate:*

Your Judiciary Committee No. 1, to whom was referred Senate Bill No. 137, entitled, "An Act to fix and regulate the fees of officers in this State, and the several counties therein," have had the same under consideration, and instruct me to report the bill back to the Senate with the following amendments, and recommend that it do pass, as amended:

Strike out Section 3, and insert the following as a substitute:

"The Assistant Attorney-General shall receive, as mileage and traveling expenses, \$1,000 per annum."

To Section 5 add: "The Clerk of the Court of Appeals in every case of felony upon which an appeal is taken, \$10, to be paid by the State."

To Section 6 add: "For determining each case of *habeas corpus*, \$3."

To Section 7 add the following as a substitute:

"The County Attorney shall be entitled to the following fees, and no others, viz: In all cases of misdemeanor, where the defendant is convicted and no appeal is taken, or when, on appeal, the judgment or sentence is confirmed, \$15, to be paid by the defendant, as other costs; in all cases of felony, when the defendant is convicted, and fails to appeal, or when, upon appeal, the judgment or sentence of the court from which the appeal is taken is confirmed, \$50, to be paid by the State; on all fines, forfeitures, or money, collected for the State, recovered by him, the County Attorney shall be entitled to twenty per cent. of the amount so collected."

To Section 8 add: "Provided, that the Clerk shall receive no pay for motions or judgments on motions for costs, or for approving bond for costs: and provided further, that judgments containing several orders shall not be considered as more than one judgment, for which charges may be made."

"For copy of petition, including certificate and seal, each one hundred words, 15 cents."

"For each recognizance entry of record, 50 cents."

"For each *capias* or other original writ in a criminal cause, 50 cents."

"For making out and transmitting the mandate or judgment of the District Court upon an appeal from the County Court, \$1."

"There shall be allowed to said Clerk such books, stationery, and office furniture as may be necessary for his office, to be paid on the order of the County Court out of the County Treasury; and a suitable office shall also be provided by the County Court, at the expense of the county."

Add the following sections to the bill:

"SEC. 18. The several officers and persons authorized to perform any of the services named in this section, shall be entitled to the fees herein allowed for such services, viz:

"For taking the acknowledgment or proof of any deed, or any other instrument of writing for registration, with certificate and seal, 50 cents."

"For taking the acknowledgment of a married woman to a deed or any other instrument of writing authorized to be executed by her, with certificate and seal, \$1."

"For taking the deposition of a witness in answer to interrogatories, under a commission, for each one hundred words, 15 cents."

"For swearing the witness to such answers, making certificates thereof, with seal, and all other business connected with taking such deposition, 50 cents."

"SEC. 19. The fees hereinbefore mentioned, pertaining to suits or actions in court, shall be taxed and allowed in the bill of costs against the party cast in such suit or action, wherein any such services shall be rendered; but not more than one copy of any matter shall be allowed in the bill of costs, and if any party or his attorney shall take out copies of his own pleadings, or of papers filed by him in the cause, no charge for such copies shall be allowed in the bill of costs."

"SEC. 20. No Clerk of the Court or Justice of the Peace shall be al-

- lowed to charge any practicing attorney of this State any fee for the examination of papers or records in his office.

"SEC. 21. Every Clerk of the Court, Sheriff, Justice of the Peace and Constable, in this State, shall keep a fee book, and shall enter therein all fees charged for services rendered; which book shall at all times be subject to the inspection of any person wishing to see the account of fees therein charged against him.

"SEC. 22. None of the fees hereinbefore mentioned shall be payable by any person whatsoever until there be produced, or ready to be produced, unto the person owing or chargeable with the same, a bill or account in writing, containing the particulars of such fees, signed by the Clerk or officer to whom such shall be due, or by whom the same is chargeable.

"SEC. 23. In all cases where any person shall be presented or indicted by the grand jury, and shall be discharged from such presentment or indictment, neither the Clerks nor Sheriffs shall charge fees for the same; but if the party or parties so presented or indicted shall be convicted, the Clerk or Sheriff shall charge him, her or them, with all fees accruing thereon.

"SEC. 24. If any of the officers herein named shall demand and receive any other or higher fees than are prescribed in this act, for any of the services herein mentioned, he shall be liable to the party aggrieved for fourfold the fees so unlawfully demanded and received, to be recovered in any court of competent jurisdiction.

"SEC. 25. It shall be lawful for any Justice of the Peace, or Clerk of the Supreme or District Court, within this State, when any suits are determined in their respective courts, and the fees are not paid by the party from whom they are due, to make out executions for the same, directed to any lawful officer of the county where the party resides; and it shall be lawful for the Clerks of the County Courts to make out executions in like manner for the fees that may become due the officers of said Courts, directed to any lawful officer of the proper county, and the officers to whom any of such executions shall be directed shall levy and proceed with the same as in other cases: *provided*, that a bill of costs shall in all cases accompany such executions.

"SEC. 26. In all cases where a citation or other process is required to be served by publication in a newspaper, the officer whose duty it may be to make such service shall be furnished with the printer's fee for such publication before he shall be required to have such service made.

"SEC. 27. It shall be lawful for the Clerk of any Court, or Justice of the Peace, to require security for costs before issuing any process in any suit about to be commenced, unless the party applying for such process, his agent or attorney, shall make oath that the party so applying is unable to give such security."

HOBBS, *Chairman*.

*Hon. R. B. Hubbard, President of the Senate:*

Your Judiciary Committee No. 1. to whom was referred Senate Bill No. 155, entitled, "An Act to amend an act to adopt and establish a penal code for the State of Texas," approved August 28, 1856, have had the same under consideration, and instruct me to report the bill back to the Senate and recommend its passage.

HOBBS, *Chairman*.

Senator Brady introduced a bill entitled: "An Act to provide for



making good by the State the loss which has accrued to the school fund by loaning it to railroad companies."

Read and referred to Committee on Finance.

On motion of Senator McCormick, the rules were suspended and Senate Bill No. 36, "An Act to provide for the manner in which publication of notice of intention to apply for the passage of a local or special law, and of such publication shall be made," was taken up with House amendments, which were as follows:

In Section 1, line 15, strike out the word, "two," and insert the word, "five."

In Section 1, line 18, after the word, "days," insert the words, "and such notice shall accurately define the locality to be affected by said law."

In Section 4, line 6, strike out the word, "or," after the word, "publishers," and insert the word, "of."

In Section 4, line 9, strike out the word, "two," and insert the word, "five."

House amendments concurred in.

Senate Bill No. 109, "An Act to regulate juries in civil cases," being the pending business on yesterday, was taken up.

Senator Ford's substitute for Senator McCormick's amendment, pending on yesterday, was withdrawn.

Senator McCormick's amendment, to strike out the words, "and able to read and write," in the last line of Section 1, was put and lost by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Crain, Ford, Henry J. R., Martin, McCormick, Thompson, Wortham—11.

NAYS—Senators Carroll, Douglass, Edwards, Francis, Grace, Guy, Henry F. M., Hobby, McLeary, McCulloch, Moore, Motley, Piner, Smith, Stephens, Story, Terrell—16.

Senator Ford renewed his substitute as an amendment to the bill, which was as follows:

"Add to Section 1 the following proviso: *Provided*, that whenever the Jury Commissioners hereinafter provided for can not find the proper number of jurors, able to read and write, then the qualifications of an ability to read and write may be dispensed with."

Adopted by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Carroll, Crain, Douglass, Edwards, Francis, Ford, Guy, Henry J. R., Henry F. M., Hobby, Martin, McLeary, McCormick, McCullough, Moore, Piner, Smith, Stephens, Storey, Terrell, Thompson, Wortham—25.

NAYS—Senators Brown, Grace, Motley—3.

Senator Smith moved to reconsider the vote by which Senator McCormick's amendment was lost, and to lay that motion on the table.

Carried.

Senator Douglass offered the following amendment:

In Section 1, line 9, strike out, "and able to read and write," and insert after the word, "gospel," in Section 2, line 8, "and all persons who cannot read and write."

Senator Stephens offered the following substitute:

Add to Section 2, "and all persons claiming exemption under the provisions of this act, except ministers of the gospel and persons over

sixty years of age, shall be taxed four dollars, for the use of the county," which was lost.

Senator Grace moved the previous question, which was put and carried.

The first question, being the pending amendment of Senator Douglass, was lost by the following vote:

YEAS—Senators Ball, Brady, Burton, Douglass, Martin, McCormick, Thompson, Wortham—8.

NAYS—Senators Blassingame, Brown, Carroll, Crain, Edwards, Francis, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, McLeary, McCulloch, Moore, Motley, Piner, Smith, Stephens, Storey, Terrell—21.

The bill was then ordered engrossed by the following vote:

YEAS—Senators Blassingame, Douglass, Edwards, Francis, Grace, Guy, Henry J. R., Henry F. M., Hobby, Martin, McLeary, McCulloch, Moore, Motley, Piner, Smith, Stephens, Storey, Terrell, Wortham—20.

NAYS—Senators Ball, Brady, Brown, Burton, Carroll, Crain, Ford, McCormick, Thompson—9.

The hour for the special order having arrived, to-wit: the committee's substitute for Senate Bills Nos. 2 and 44, "An Act to organize the County Courts in the State, and to define their powers and jurisdiction," was taken up, and, on motion of Senator Piner, the Senate went into Committee of the Whole on the same.

Senator Smith called to the chair.

#### IN SENATE.

Senator Smith, Chairman of the Committee of the Whole, reported that the committee have had under consideration a substitute for Senate Bills Nos. 2 and 44, "An Act to organize the County Courts, and to define their powers and jurisdiction," and had made progress, and asked leave to sit again.

On motion of Senator Burton, the Senate adjourned until Monday at 10 o'clock.

#### TWENTY-NINTH DAY.

SENATE CHAMBER,  
AUSTIN, TEXAS, May 22, 1876. }

Senate met pursuant to adjournment. Roll called. Quorum present. Prayer by Rev. —.

Journal of Saturday read and adopted.

Senator Ford, Chairman of the Committee on Indian Affairs and Frontier Protection, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Indian Affairs and Frontier Protection have had under consideration House Bill No. 83, "An Act making an appropriation to pay Captain L. H. McNelly's company of volunteer militia for sixteen months' services on the Rio Grande, to July 1, 1876," and recommend that the bill do pass.

JOHN S. FORD, *Chairman.*

On motion of Senator Terrell, George Calhoun, on account of sickness, was excused two days.

Senator Thompson introduced a bill entitled, "An Act to provide for the feeding of the prisoners in the jails of the several counties of the State, by contract."